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6 CARSON INDUSTRIES, INC.,  
7 Plaintiff,  
8 v.  
9 AMERICAN TECHNOLOGY  
10 NETWORK CORP.,  
11 Defendant.  
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Case No. [14-cv-01769 NC](#)

**ORDER TO SHOW CAUSE WHY  
DEFENDANT ATN SHOULD NOT  
BE REQUIRED TO FURNISH  
FURTHER OR DIFFERENT  
SECURITY**

Re: Dkt. No. 199

15 This Court entered amended judgment in plaintiff Carson's favor against defendant  
16 ATN in the amount of \$601,153.74, and denied ATN's motion to set aside the judgment.  
17 Dkt. Nos. 153, 198. Under Federal Rule of Civil Procedure 62(a), the judgment became  
18 final and enforceable fourteen days after it was entered. ATN appealed the judgment and  
19 the appeal is pending before the Ninth Circuit Court of Appeals.

20 On June 8, 2016, ATN filed an "Amended Undertaking" seeking to stay  
21 enforcement of the judgment while the case is on appeal. Dkt. No. 193.

22 By motion filed August 17, 2016, Carson challenged the Amended Undertaking.  
23 Dkt. No. 199. Carson requested an order to show cause why defendant ATN should not be  
24 required to furnish further or different security, or to require the justification of personal  
25 sureties under Federal Rule of Civil Procedure 65.1 and Civil Local Rule 65.1(d). Dkt.  
26 No. 199. ATN opposed the motion. Dkt. No. 200.

27 The sufficiency of ATN's Amended Undertaking turns on application of Federal  
28 Rule of Civil Procedure 62(f). That section provides that "If a judgment is a lien on the  
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United States District Court  
Northern District of California

1 judgment debtor's property under the law of the state where the court is located, the  
2 judgment debtor is entitled to the same stay of execution the state court would give."

3 Relying on this provision, ATN asserts that it is entitled to the same stay of execution that  
4 a California court would give because it was served with a notice of judgment lien by  
5 Carson. Exh. R to Declaration of Marc Vayn, in support of Amended Undertaking, Dkt.  
6 No. 196.

7 This Court previously explained why Rule 62(f) does not apply here. Order, Dkt.  
8 No. 171 at 4:16-22. "California district courts have uniformly concluded that a federal  
9 judgment rendered in California does not trigger the provisions of Rule 62(f)." *Cotton ex*  
10 *rel. McClure v. City of Eureka*, 860 F. Supp. 2d 999, 1026 (N.D. Cal. 2012). Furthermore,  
11 "Under California law, a judgment is not a lien unless and until such time as the creditor  
records the judgment in the county where the debtor's property is located." *Id.* at 1025.  
12 Carson's notice of judgment lien does not convert the judgment into a lien under California  
13 law for purposes of Rule 62.

14 Because ATN's opposition relies on application of Rule 62(f), its remaining  
15 arguments in favor of its Amended Undertaking fail.

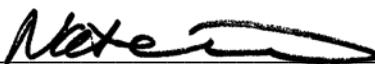
16 The Court therefore GRANTS Carson's motion and ORDERS ATN to show cause  
17 in writing by December 21, 2016, why it should not be required to furnish further or  
18 different security than its Amended Undertaking. Before ATN files any response to this  
19 order, the parties are ORDERED to meet and confer in an attempt to resolve the question  
20 of security on appeal.

21 If disputes remain, the Court will hold a telephone hearing on January 6, 2017, at  
22 2:30 p.m., or at another mutually available time coordinated by my courtroom deputy.

23 **IT IS SO ORDERED.**

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26 Dated: December 5, 2016

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NATHANAEL M. COUSINS  
United States Magistrate Judge

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